IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE FIRST DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE N.V. RAMANA

WRIT PETITION NO : 24038 of 1997

Between:

Goverdhan Das Bhoob, S/o. Late Bhawarilal Bhoob,
R/o. 19-4-321/B/4, Kishan Bagh,
Hyderabad-254.

..... PETITIONER

AND

1 The General Manager, Hyderabad Tele Communications Telecom Dist.,
Suryalok Complex, Gunfoundry, Hyderabad.
2 The Divisional Engineer, Gowliguda Telephone Exchange,
Gowliguda Chaman, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an order or direction particularly one in the nature of Mandamus declaring that the issuance of demand notice dated 09/09/1997 towards telephone No. 4017269 for Rs. 24,383 and dis-connection notice to the telephone No. 4016458 of the petitioner is arbitrary, illegal and void and against to the Telegraphic Rules.

Counsel for the Petitioner: MR.P.R.BALARAMI REDDY

Counsel for the Respondents: MR. M. Ganga Rao

The Court made the following :

ORDER:

In this writ petition, the petitioner seeks to challenge the action of the respondents in issuing the impugned demand note dated 09-09-1997 for payment of Rs.24,383/- with respect to his brother's telephone bearing No.4017269 and disconnection notice, dated 09-09-1997 to his telephone bearing No.4016458.

The petitioner states that he has nothing to do with the telephone of his brother bearing No.4017269, and for non-payment of the dues by his brother, the respondents cannot issue disconnection notice to his telephone No.4016458, and accordingly he submitted a reply dated
19-9-1997 requesting the first respondent to drop all further proceedings. Therefore, seeking to quash the impugned disconnection notice, the petitioner filed this writ petition.

The respondents filed a counter-affidavit stating that the petitioner's brother Mr. Gopal Das Boob is residing with the petitioner at
H.No.19-4-321/1/C, Kishanbagh, Hyderabad. He was due an amount of Rs.24,383/- for his telephone No.4017269. It is stated that since there was no response from him to the demand notice issued on 29-8-1997 for payment of the due amount, another notice dated 15-9-1997 was issued asking him to pay the dues, otherwise the working telephone No.4016458 would be disconnected without further intimation. As no amount was paid as demanded, the impugned disconnection notice was issued to the petitioner under Rule 443 of the Indian Telephone Rules, and as the petitioner submitted a reply dated 19-9-1997, his telephone was not disconnected.

Heard the learned counsel for the petitioner and the learned counsel appearing for the petitioners.

I am unable to understand the impugned action of the respondents. When it is found that the petitioner is not payable any amount with respect to his telephone and his brother has to pay the dues relating to his telephone, it is for the respondents to take appropriate action against the defaulter and no liability can be fastened to the petitioner for the dues of his brother. A similar issue has been considered by a single judge of this Court in **Y. Pridhvi Kumar v. General Manager, Telecom District, Hyderabad**, wherein it was held thus:

> "… I apprehend that I cannot acceded to this contention of the learned standing counsel for the Central Government for the simple reason that the petitioner and his mother are having two different telephones and as citizens of India, they are entitled to be subscribers of telephones independently and merely because there is a relationship of mother and son and as the mother has defaulted in payment of amounts to the respondent, no liability can be fastened to the petitioner and neither the statute nor the rules framed thereunder empower the authorities to disconnect the telephone for the default committed by the petitioner's mother. Even, if any statute makes such an imposition, the same would be arbitrary and unreasonable and be a clear infraction of the fundamental rights guaranteed under Article 14 of the Constitution of India".

In the above view of the matter, the writ petition is allowed. No costs. However, this order does not preclude the respondents to initiate action against the defaulter for collection of the dues pertaining to telephone bearing No.4017269.

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N.V. RAMANA, J

Date: 01-4-2005

Svv

That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on this Friday, the First day of April, Two thousand and Five.

..... REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1 The General Manager, Hyderabad Tele Communications Telecom Dist., Suryalok Complex, Gunfoundry, Hyderabad.
2 The Divisional Engineer, Gowliguda Telephone Exchange, Gowliguda Chaman, Hyderabad.

3 Two CD copies

*Form-NIC-OGS/WP{**ANURADHA**}*